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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,138

09/07/2005

Ross McDonald

94671

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03/13/2009

Husch Blackwell Sanders, LLP

Husch Blackwell Sanders LLP Welsh & Katz

120 S RIVERSIDE PLAZA

22ND FLOOR

CHICAGO, IL 60606

EXAMINER

PRICE, CARL D

ART UNIT

PAPER NUMBER

3749

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03/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,138	Applicant(s) MCDONALD, ROSS	
	Examiner Carl D. Price	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/29/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/29/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION**Drawings**

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the grill bars are formed by a central flat section with downwardly angled flanges along the longitudinal sides.” (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 6, 18, 19, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitations "the gaps", "the ratio", "the area" and "the spaces". There is insufficient antecedent basis for these limitations in the claim.

In claim 5, the recitation “wherein the gaps between the ration ...” is vague.

Claim 6 recites the limitation "the gas flame". There is insufficient antecedent basis for this limitation in the claim.

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Claim 6 is vague. The recitation "...wherein the burners are positioned and configured so that the gas flame has an outer mantle just reaches the underside of the corresponding bar." is confusing and incomplete. Is applicant attempting to claim that - - the burners produce gas flames, wherein each gas flame has an outer mantle and the burners are positioned and configured so that the outer mantle just reaches the underside of the corresponding bar.- - ?

Claim 18 recites the limitation "its". There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "its". There is insufficient antecedent basis for this limitation in the claim.

Claims 22 and 23 are vague and indefinite, since it is unclear what structure would necessarily go to make up a "barbeque".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

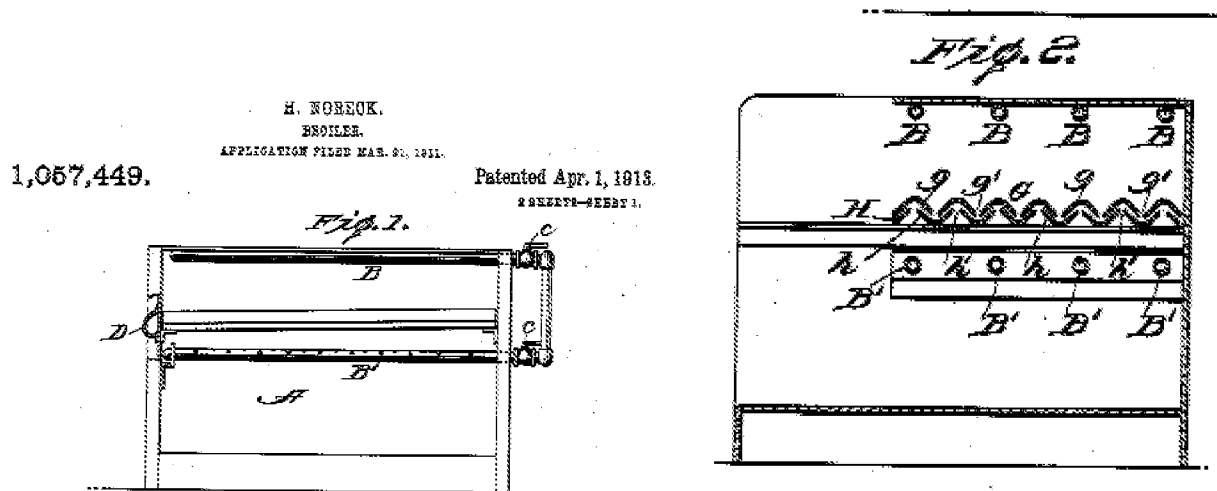
Claims Rejected under 35 U.S.C. 102(b)

Claims 1, 3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by **US 1057449 (Noreck)**.

US 1057449 (Noreck) shows and discloses broiler including a cooking surface having:

- an upper side of a series of parallel closely spaced and inclined bars (g) having a convex upper side and concave underside; and
- a corresponding series of burners (B') extending respectively along and adjacent an underside of each bar so that melted fats or other material falling from or between the bars fall past a combustion zone around the burners and food on the surface is shielded from the radiant heat of the burners.

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Claims Rejected under 35 U.S.C. 102(b)

Claims 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by **WO 98/47637**.

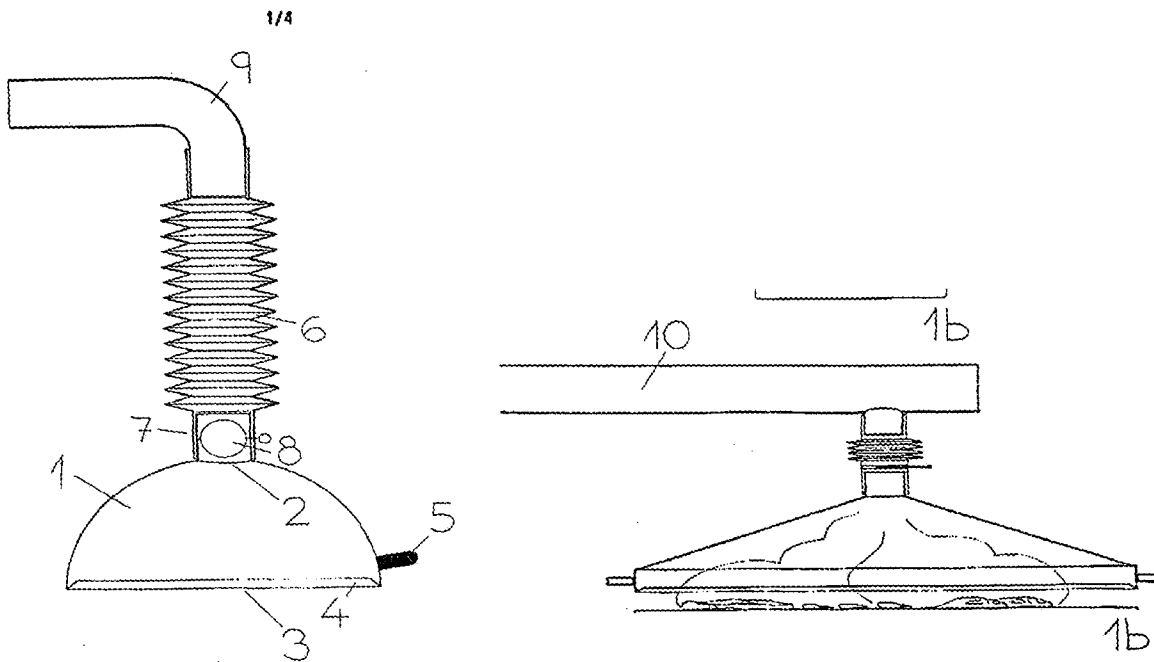
WO 98/47637 shows and discloses an apparatus mounted as an extension of smoke extraction conduits in a kitchen up to the location where the smokes and gas are produced (pans, cookers, etc.). The apparatus is comprised of two bodies: the hood or bell itself (1) which collects the gas and smokes, and a flexible and extensible tube (2) which conducts gas and smokes collected in the bell to the extraction conduits (3). The first body (hood) has an opening (4) through which the gas and smokes can enter, a flange (5) towards the inside of the hood which collects the condensations, another opening (6) through which the smokes and gas can come out to reach the second body, and a handle (7). The second body has a valve (8) which closes the conduit and a junction part (9) for connecting it to the extraction conduits. This apparatus avoids the dispersion of fumes and gas produced by pans and cookers in a kitchen.

WO 98/47637 teaches, from applicant's same cooking appliance field of endeavor, hood (1) to cover at least part of the cooking surface and enclose a cooking region, a vent opening (2) in said hood to provide a passageway for egress from the cooking region, and a manually operated baffle (8) cooperating with said vent opening and selectively operable to

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move between an open position in which egress from the cooking region is permitted and a closed position in which egress is substantially prevented.

WO 98/47637



Claim Rejections - 35 USC § 103

Claims 2 and 4-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **US 1057449 (Noreck)** in view of **JP 11-211094**.

US 1057449 (Noreck) shows and discloses the invention substantially as set forth in the claims with possible exception to:

- a selected number of burners with an interconnected subsidiary manifold with a gas cock supplied from a primary manifold under the control of a single regulator valve; and
- certain claim arrangements including the relationship between the area forming the bars and the spaces there between, the relationship of the flame

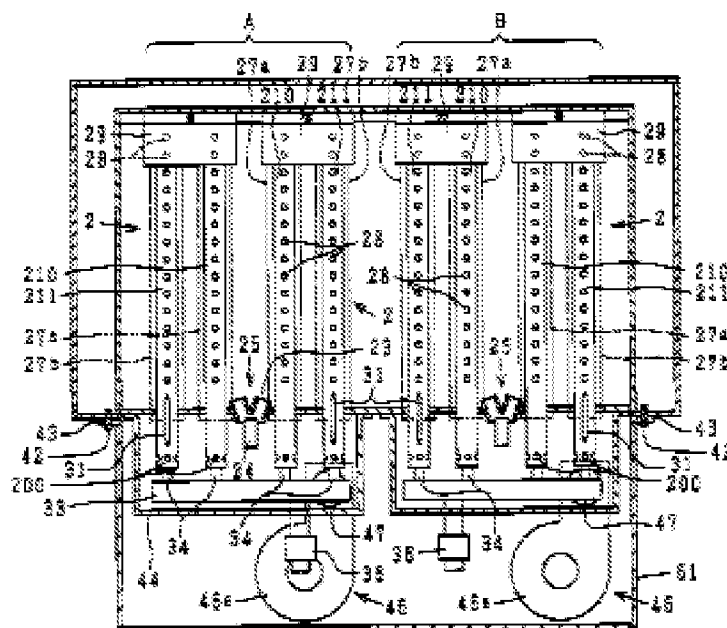
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with respect to the bars, the relative size of the ports along the length of the burner, the cross sectional shape of the burner, the slope of the bars.

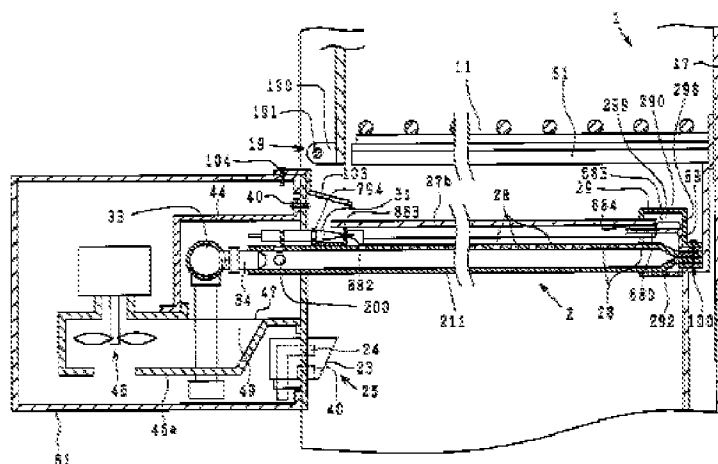
JP 11-211094 teaches, from applicant's same cooking appliance field of endeavor, shows and discloses broiler including a cooking surface having:

- an upper side of a series of parallel closely spaced and inclined bars (27a, 27b) having a convex upper side and concave underside; and
- a corresponding series of burners (28) extending respectively along and adjacent an underside of each bar so that melted fats or other material falling from or between the bars fall past a combustion zone around the burners and food on the surface is shielded from the radiant heat of the burners; and
- a selected number of burners with an interconnected subsidiary manifold (55) with a gas cock (57) supplied from a primary manifold (54) under the control of a single regulator valve (36).

【圖3】



【図5】



In regard to claims 2, 4, 5, 6, 8, 9, 11 and 14, since the shape of a given bar arrangement, the relationship between the area forming the bars and the spaces there between, the relationship of the flame with respect to the bars, the relative size of the ports along the length of the burner, the cross sectional shape of the burner, the slope of the bars, etc. would necessarily depend on numerous interrelated design concerns such as, the overall size and shape of the burner, the actual size of the flame ports, etc., to form the various aspects of the invention in the manner set forth in claims 2, 4, 5, 6, 8, 9, 11 and 14 can be viewed as nothing more than merely a matter of choice in design absent the showing of any new or unexpected results produced therefrom over the prior art of record. In regard to claim 12, in particular, the recitation “wherein the temperature of the grill bars is controlled to between 280° and 295°C.” is deemed to be merely a statement of intended use and/or method of operating the claimed apparatus which fails to further limit the claimed apparatus in a manner which would distinguish the claimed invention over the prior art of record.

In regard to claim 13, Official Notice is taken that it is well known to provide cooking appliance burner and/or cooking surfaces with a temperature sensor to provide an input to a feedback gas control to maintain the cooking surface temperature at a selected level. Therefore, in view of that which is well known and for the known purpose, to provide a cooking apparatus such as **US 1057449 (Noreck)** with a temperature sensor would have been obvious to a person having ordinary skill in the art.

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In regard to claims 15 and 16, in view of **JP 11-211094** shows the gas burners are arranged in a series of discrete banks (B, B'), it would have been obvious to a person having ordinary skill in the art to modify the burners of **US 1057449 (Noreck)** to include banks and valves in the manner set forth in the claims.

In regard to claim 17, **US 1057449 (Noreck)** shows the bars are mounted by lower edges engaging tracks formed in transversely extending mounting rails (I).

Claim Rejections - 35 USC § 103

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over **US 1057449 (Noreck)** in view of **WO 98/47637**.

US 1057449 (Noreck) shows and discloses the invention substantially as set forth in the claims with possible exception to:

- hood to cover at least part of the cooking surface and enclose a cooking region, a vent opening in said hood to provide a passageway for egress from the cooking region, and a manually operated baffle cooperating with said vent opening and selectively operable to move between an open position in which egress from the cooking region is permitted and a closed position in which egress is substantially prevented.

WO 98/47637 teaches, from applicant's same cooking appliance field of endeavor, hood (1) to cover at least part of the cooking surface and enclose a cooking region, a vent opening (2) in said hood to provide a passageway for egress from the cooking region, and a manually operated baffle (8) cooperating with said vent opening and selectively operable to move between an open position in which egress from the cooking region is permitted and a closed position in which egress is substantially prevented.

In regard to claim 24, for the purpose of directing and controlling the egress of material to be vented from a cooking surface, it would have been obvious to a person having ordinary skill in the art to provide **US 1057449 (Noreck)** with a hood having a baffle controlled vent opening, in view of the teaching of **WO 98/47637**

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Conclusion

See the attached USPTO for, 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl D. Price whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl D. Price/

Primary Examiner, Art Unit 3749

cp